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PATENT  
629-1-033CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Joseph Battiston  
SERIAL NO. : 10/786,381 EXAMINER : Robert M. Fetsuga  
FILED : February 25, 2004 ART UNIT : 3751  
FOR : Pail/Splash Guard for Commode

Certificate of Mailing Under 37 CFR 1.8

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Carolyn Di Meglio

(Name of Depositor.)

*Carolyn Di Meglio 7/29/04*  
(Signature and Date)

RESPONSE TO REQUIREMENT FOR RESTRICTION/ELECTION  
UNDER 35 U.S.C. §121

COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

Dear Sir:

Responsive to the Office Action dated July 20, 2004, issued in connection with the above-identified Application, having a due date for response of August 20, 2004, please consider the following remarks.

By the outstanding action, requirement has been imposed on applicant to elect to prosecute from among two (2) groups of allegedly distinct claimed inventions. The two groups cited by the Examiner are reproduced below for purposes of confirmation.

- I. Claims 19-24, drawn to a commode, classified in class 4, subclass 254.
- II. Claims 12-18, 25 and 26, drawn to a pan, classified in class 4, subclass 479.

In order to properly respond to the above requirement, applicant elects to prosecute the invention represented by the grouping "II" of claims 12-18, 25 and 26, drawn to a pan, classified in class 4, subclass 479.

The Examiner has required applicant to elect to prosecute for prosecution a single species from among two (2) allegedly distinct species and two (2) allegedly distinct subspecies of the claimed invention, with no claims being deemed generic. The species cited by the Examiner are reproduced below for purposes of confirmation.

- I. Figure 1;
- II. Figure 2; and

the subspecies cited by the Examiner are reproduced below for purposes of confirmation.

Sub-species A: Figure 3A;

Sub-species B: Figure 3B;

In order to properly respond to the above requirements, applicant elects to prosecute the invention represented by the grouping "II" of Figure 2, believed to be readable thereon by claims 12-18, 25 and 26, as drawn to a pan, with the Applicant further electing the sub-species corresponding to "Sub-species B, Figure 3B".

Applicant understands that, upon indication of allowability of the examined claims, the non-elected species will be substantively considered within the prosecution of the present application. On the strength of this assumption and understanding, applicant will refrain from disputing this requirement.

#### *Fees*

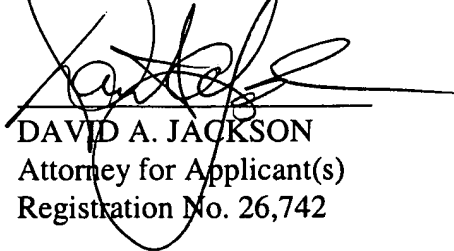
No fees are believed due in the present response, however, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

Accordingly, confirmation of applicant's elections, and an early and favorable action on

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the merits, is courteously solicited. The examiner is encouraged to call the undersigned to discuss any aspects of the application with a view toward expediting prosecution.

Respectfully submitted,



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